

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Cooper	Team: Squad #11	CCRB Case #: 201506191	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/15/2015 12:58 AM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 1/15/2017	EO SOL 1/15/2017	
Date/Time CV Reported Wed, 07/15/2015 1:10 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 07/27/2015 11:20 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Ardolino	03101	951507	075 PCT
2. SSA Robert Martinez	01369	922716	075 PCT
3. POM William Schumacher	04618	949640	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Melchor Alban	08328	939851	075 PCT
2. POM James Seder	06788	947479	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SSA Robert Martinez	Abuse: Sgt. Robert Martinez entered § 87(2)(b) in Brooklyn.	
B.POM William Schumacher	Abuse: PO William Schumacher entered § 87(2)(b) in Brooklyn.	
C.POM Michael Ardolino	Abuse: PO Michael Ardolino entered § 87(2)(b) in Brooklyn.	
D.POM Michael Ardolino	Force: PO Michael Ardolino used a chokehold against § 87(2)(b)	
E.SSA Robert Martinez	Force: Sgt. Robert Martinez used a chokehold against § 87(2)(b)	
F.POM Michael Ardolino	Discourtesy: PO Michael Ardolino spoke discourteously to § 87(2)(b)	
G.POM Michael Ardolino	Discourtesy: PO Michael Ardolino spoke discourteously to § 87(2)(b)	
H.SSA Robert Martinez	Discourtesy: Sgt. Robert Martinez spoke discourteously to § 87(2)(b)	
I.POM Michael Ardolino	Abuse: PO Michael Ardolino refused to provide his name and shield number to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.POM Michael Ardolino	Force: PO Michael Ardolino hit § 87(2)(b) against a vehicle.	
K.POM Michael Ardolino	Force: PO Michael Ardolino used physical force against § 87(2)(b)	
L.POM William Schumacher	Force: PO William Schumacher used physical force against § 87(2)(b)	
M.POM William Schumacher	Discourtesy: PO William Schumacher spoke discourteously to § 87(2)(b)	
N.POM William Schumacher	Abuse: PO William Schumacher refused to provide his name or shield number to § 87(2)(b)	
O.POM William Schumacher	Abuse: PO William Schumacher threatened to arrest § 87(2)(b)	

### Case Summary

On July 15, 2015, at approximately 12:58 a.m., Sgt. Martinez, PO Michael Ardolino and PO William Schumacher from the 75<sup>th</sup> Precinct Anti-crime Unit responded to a 911 call from § 87(2)(b). § 87(2)(b) stated that she was robbed by § 87(2)(b) and § 87(2)(b) inside § 87(2)(b) home at § 87(2)(b). The officers went to the location where the robbery had occurred and spoke to § 87(2)(b) and § 87(2)(b) and confirmed their identities as the perpetrators of the robbery. Sgt. Martinez, PO Ardolino, and PO Schumacher stepped into the front foyer area of the home to arrest § 87(2)(b) and § 87(2)(b) (**Allegations A through C**). Once inside the home a struggle ensued as the officers attempted to handcuff § 87(2)(b) and § 87(2)(b). During the struggle, PO Ardolino allegedly placed § 87(2)(b) in a chokehold and Sgt. Martinez allegedly placed § 87(2)(b) in a chokehold (**Allegations D and E**). While handcuffing § 87(2)(b) PO Ardolino allegedly said, “Shut the fuck up” and other discourteous statements as he walked her to a marked police vehicle (**Allegation F**). Once PO Ardolino and Sgt. Martinez were outside of the house, PO Ardolino told § 87(2)(b) (**Allegation G**) and Sgt. Martinez allegedly told § 87(2)(b) (**Allegation H**), “Get the fuck out of the way.” At this time § 87(2)(b) allegedly requested PO Ardolino’s name and shield number and he allegedly did not provide it (**Allegation I**).

Once PO Ardolino and § 87(2)(b) made it to the police vehicle, PO Ardolino allegedly pushed § 87(2)(b) head into the police vehicle (**Allegation J**). At this point, § 87(2)(b) kicked PO Ardolino which caused her shoe to fall off. PO Ardolino picked up § 87(2)(b) shoe and then allegedly threw it at her and closed the police vehicle door (**Allegation K**). As § 87(2)(b) stood on the sidewalk, PO Schumacher approached § 87(2)(b) pushed him (**Allegation L**), and said, “Get the fuck out of here” (**Allegation M**). § 87(2)(b) allegedly asked PO Schumacher for his name and shield (**Allegation N**) and PO Schumacher allegedly replied “Get the fuck out of here before we take you, too” (**Allegation M continued and Allegation O**).

§ 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b) and transported to the 75<sup>th</sup> Precinct stationhouse.

Shortly after Sgt. Martinez, PO Ardolino, and PO Schumacher arrived at § 87(2)(b) § 87(2)(b) brother § 87(2)(b) began recording the incident on his cellular phone and the family provided the video to the CCRB. Between the 3:34 mark and 3:45 in the first original video, it is clearer than the SnagIt video which officer stated the alleged discourteous statements and which officer did not within Allegations F-H. In the second original video at the commencement of the video until the 0:24 mark Allegations J-O are not as clear in the SnagIt software version of the video compared to the original, and those clips appear darker and grainier than the original video.



2015-12-10\_16-06-44.mp4

Between July 29 and August 21, 2015, two calls were made to § 87(2)(b). At the time of each call § 87(2)(b) scheduled an appointment which he missed. Two letters and two emails were sent to § 87(2)(b) which were not returned by the United States Postal Service. Also during the same time, § 87(2)(b) was called three times and scheduled two appointments which she missed. The case was closed on August 26, 2015 and returned for further contact attempts on September 11, 2015. On September 17, 2015, after three additional phone calls were made to § 87(2)(b)

§ 87(2)(b) he provided a sworn statement via telephone. Between September 22 and October 7, 2015, contact was made with § 87(2)(b) who was unable to be interviewed until October 19, 2015. At the time of § 87(2)(b)'s interview she provided the video footage which captured allegations against her § 87(2)(b) who had previously been uncooperative with the investigation. On October 14, 2015, § 87(2)(b) scheduled an appointment for October 19, 2015. On October 19, 2015, § 87(2)(b) missed her appointment and was called later that day. At the time of the call, § 87(2)(b) scheduled a field interview for October 23, 2015. On October 23, 2015, § 87(2)(b) was interviewed at her home. On October 27, 2015, the case was 90 days old. On October 28, 2015 and November 12, 2015, two additional appointments were scheduled with § 87(2)(b) to review video footage with her; § 87(2)(b) missed her first appointment. On November 11, 2015, § 87(2)(b) cancelled her second follow-up interview. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

### **Mediation, Civil, and Criminal Histories**

- Due to § 87(2)(b) and § 87(2)(b)'s criminal case this case was unsuitable for mediation.
  - As of December 11, 2015, a Notice of Claim for § 87(2)(b) and § 87(2)(b) is pending. (Board Review 37) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

### **Civilian and Officer Histories**

- This is the first CCRB complaint for § 87(2)(b) and § 87(2)(b) has filed five CCRB complaints in the past. § 87(2)(b) has filed two previous complaints. § 87(2)(b)
- Sgt. Martinez has been a member of service for 17 years. In case number 200205713, the Board recommended charges and the NYPD issued Command Discipline A for a discourtesy allegation. In case number 200704280 the Board recommended charges for a physical force and threat of force allegation and the NYPD recommended no disciplinary action. In case 201101407 the Board recommended Command Discipline for a frisk and stop allegation the NYPD recommended instructions. In Case 201310387 the Board recommended charges for a physical force allegation; the NYPD has not issued a penalty. § 87(4-b) § 87(2)(g)
- PO Michael Ardolino has been a member of service for three years. In case number 201502623 the Board recommended Command Discipline A for refusing to provide his name; the NYPD has not issued a disposition or penalty § 87(4-b) § 87(2)(g)
- PO William Schumacher has been a member of service for five years. In case number 201204235 the Board recommended charges for a physical force allegation and premises

entered and searched allegation and PO Schumacher was also cited for other misconduct for making a false official statement; the next APU court date is January 22, 2016. § 87(4-b) § 87(2)(g)

### **Allegations not Pled**

§ 87(2)(b) and § 87(2)(b) both alleged that PO Ardolino used offensive language towards § 87(2)(b) while arresting her. However, § 87(2)(b) never alleged that any offensive language was used towards her and the video provided by the family does not capture any offensive language being uttered. § 87(2)(g)

### **Findings and Recommendations**

**Allegation A- Abuse of Authority: Sgt. Robert Martinez entered § 87(2)(b) in Brooklyn.**

**Allegation B- Abuse of Authority: PO William Schumacher entered § 87(2)(b) in Brooklyn.**

**Allegation C- Abuse of Authority: PO Michael Ardolino entered § 87(2)(b) in Brooklyn.**

It is undisputed that Sgt. Martinez, PO Schumacher, and PO Ardolino entered § 87(2)(b) in Brooklyn to effect the arrest of § 87(2)(b) and § 87(2)(b) and that they did not enter beyond the foyer area of the home, where § 87(2)(b) and § 87(2)(b) were apprehended and then removed.

Sgt. Martinez, PO Ardolino, and PO Schumacher were consistent that they responded to a radio run of a robbery that had been committed. The officers went to § 87(2)(b) in Brooklyn and spoke to § 87(2)(b). § 87(2)(b) explained to the officers that she was robbed inside the basement of § 87(2)(b) by § 87(2)(b) and § 87(2)(b). The officers transported § 87(2)(b) to § 87(2)(b) and once there they spoke to § 87(2)(b) step-father, § 87(2)(b) and her mother, § 87(2)(b). § 87(2)(b) corroborated that after she heard fighting in the basement, she told § 87(2)(b) and § 87(2)(b) to return § 87(2)(b) phone. While the officers waited at the door, § 87(2)(b) called § 87(2)(b) and § 87(2)(b) up from the basement. Sgt. Martinez spoke with § 87(2)(b) who stood in front of him at the front door. The officers confirmed they were speaking to § 87(2)(b) and § 87(2)(b) who provided details similar to § 87(2)(b) account of what happened in the basement.

The video footage provided shows the conversation Sgt. Martinez had with § 87(2)(b) and § 87(2)(b) about the reported robbery and that he is already standing in the threshold of the entrance to the apartment. None of the civilians tell him he needs to exit the threshold or cannot enter. The video also shows that after this discussion, the officers begin to enter the house to effect the arrest of § 87(2)(b) and § 87(2)(b). As Sgt. Martinez is entering, none of the civilians tell him he cannot enter (**Board Review 38, 39 and 40**).



Entry.mp4

The UF-61 Complaint Report provides the statement made by § 87(2)(b) that she was robbed at knifepoint at § 87(2)(b) (Board Review 24).

“A person is guilty of robbery in the first degree when he forcibly steals property and when, in the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime : causes serious physical injury to any person who is not a participant in the crime; or is armed with a deadly weapon; or uses or threatens the immediate use of a dangerous instrument.” N.Y.S. Penal Law 160.15 (Board Review 32)

“Officers were warranted in reaching in and pulling out the defendant from his residence when he voluntarily opened his door and then stood in close proximity of the doorway, since by his actions, he knowingly and voluntarily presented himself for public view.” People v. Ashcroft, 33 N.Y.3d 429 (2006) (Board Review 34)

§ 87(2)(g)

**Allegation D- Force: PO Michael Ardolino used a chokehold against § 87(2)(b)**

**Allegation E- Force: Sgt. Robert Martinez used a chokehold against § 87(2)(b)**

**Allegation J- Force: PO Michael Ardolino hit § 87(2)(b) against a vehicle**

**Allegation K- Force: PO Michael Ardolino used physical force against § 87(2)(b)**

§ 87(2)(b) stated that Sgt. Martinez told her, “Put your hands behind your back” and as he went to grab her, PO Ardolino stepped in and grabbed her by the arm. PO Ardolino, with the help of PO Schumacher, had their hands on her wrists and were twisting them, which caused her to cry. § 87(2)(b) acknowledged twisting her body but denied she resisted arrest in another way. § 87(2)(b) denied that PO Ardolino had his hand around her neck and denied that her breathing was restricted; she stated she could breathe without any problem. § 87(2)(b) stated that while she was being apprehended, she saw Sgt. Martinez grab § 87(2)(b) by the neck before putting her in handcuffs. § 87(2)(b) stated that at the police vehicle, PO Ardolino placed one of his hands on the crown of her head and one hand on her wrist and then allegedly intentionally pushed the left side of her head on the top of the police vehicle, causing her body go into the police vehicle. At this point, she kicked PO Ardolino and her shoe, causing it to fall off. At this point, PO Ardolino allegedly picked up § 87(2)(b) shoe and threw it at her and closed the vehicle door (Board Review 45).

§ 87(2)(b) who was uncooperative with the investigation (Board Review 54), stated in her initial telephone statement that Sgt. Martinez grabbed her by the back of the neck and threw her down

and picked her back up. She did not state that an officer used a chokehold or otherwise restricted her breathing (**Board Review 49**).

§ 87(2)(b) stated that while PO Ardolino placed § 87(2)(b) into handcuffs that he pressed his body against § 87(2)(b) body and his right hand on the side of § 87(2)(b) head with it pressed against a nearby wall where she and PO Ardolino were standing. PO Ardolino allegedly had his left hand around the front of § 87(2)(b) neck where it remained for approximately 10 to 15 seconds. Although, § 87(2)(b) was speaking loudly, she lost her breath and stated that she could not breathe (**Board Review 43**). In § 87(2)(b)'s call to IAB to report this incident, he stated that when he asked the officers why § 87(2)(b) was being arrested, he was placed in a chokehold (which he did not repeat in his verified interview) and did not state that an officer used a chokehold on § 87(2)(b) (**Board Review 48**).

§ 87(2)(b) was generally consistent with § 87(2)(b) that while the officers were handcuffing § 87(2)(b) that PO Ardolino placed his hands around the front of § 87(2)(b) throat and the back of her head, but did not state that § 87(2)(b) said she could not breathe nor gave an indication that her breathing was restricted (**Board Review 44**). Both § 87(2)(b) and § 87(2)(b) admitted that § 87(2)(b) was moving her body around, although neither could specify how; neither of them stated that any officer put his hand on § 87(2)(b)'s neck or otherwise attempted to restrict her breathing.



chokehold allegation.mp4

At the 0:08 mark in the video, a black glove is making contact with § 87(2)(b) shoulder. Both PO Ardolino and PO Schumacher are wearing black gloves and it is difficult to see exactly whose hand is placed on § 87(2)(b) shoulder. PO Schumacher is seen in the video standing behind § 87(2)(b) and against the wall while, PO Ardolino is standing in front of § 87(2)(b).

§ 87(2)(b) stated as he was filming the incident he did not know whether or not PO Ardolino's hand made contact with § 87(2)(b) throat and denied that § 87(2)(b) complained that her breathing was restricted. § 87(2)(b) corroborated that Sgt. Martinez grabbed § 87(2)(b) by the back of her neck but denied seeing any additional contact with § 87(2)(b). § 87(2)(b) also stated that he did not recall whether or not § 87(2)(b) head ever made contact with the top of the police vehicle or not. At the vehicle § 87(2)(b) shoe came off. However, § 87(2)(b) did not recall when or how this happened because his attention was elsewhere at the time her shoe fell off (**Board Review 47**).

§ 87(2)(b) was standing in the hallway between the basement door and living room door, so he did not see the details of the handcuffing process because he did not come upstairs until this point. However, § 87(2)(b) watched as PO Ardolino had his hands on § 87(2)(b) forehead near temple and push her head and as he did that, § 87(2)(b) head hit the top of the police vehicle (**Board Review 46**).

All of the officers denied that § 87(2)(b) or § 87(2)(b) were placed in a chokehold or that their breathing was restricted.

PO Ardolino stated that while attempting to handcuff § 87(2)(b) that she was resisting by pulling away from him but he did not recall the placement of her body but he was eventually able to maneuver in order to place her into handcuffs. After watching the video, PO Ardolino stated that at the 2:29 mark that his hand was on § 87(2)(b) shoulder and that PO Schumacher's hand is on top of his hand and denied that he made contact with § 87(2)(b) throat.



force allegation § 87(2)(b).mp4

The video shows that when Sgt. Martinez, PO Ardolino, and PO Schumacher stepped into handcuff § 87(2)(b) and § 87(2)(b) that they both actively resisted being handcuffed. At the 0:10 mark, Sgt. Martinez steps in front of § 87(2)(b) and placed his hand on her left shoulder, At the 0:14 mark Sgt. Martinez is behind § 87(2)(b) and attempts to pull her by her arms but is unable to do so. During the video, § 87(2)(b) is heard repeatedly saying stop fighting while § 87(2)(b) can be heard saying calm down. Between the 0:23 second mark, § 87(2)(b) is seen holding on to the banister. However, the video does not clearly capture § 87(2)(b) resistance. The video shows the positions of PO Ardolino and PO Schumacher during the alleged chokehold between the 0:17 and 0:25 mark.. The video also captures the point when Sgt. Martinez has his hands on the back of § 87(2)(b)'s head at the 0:30 mark.

PO Ardolino stated that as he walked § 87(2)(b) out of the house and to the police vehicle, § 87(2)(b) continued to pull her body away. Once at the police vehicle, PO Ardolino opened the back passenger's side door to place § 87(2)(b) inside and she started yelling and was twisting her body in order to get away from him. At this point § 87(2)(b) kicked him. PO Ardolino denied that § 87(2)(b) head or body ever hit the top of the police vehicle. PO Ardolino stated that his hands were placed where § 87(2)(b) was cuffed and that he guided her into the police vehicle with his hand on the crown of her head. § 87(2)(b) did not complain of any injuries. Once inside the vehicle, § 87(2)(b) kicked PO Ardolino in the stomach which caused him to fall back and then she kicked him again. PO Ardolino acknowledged that her shoe fell off but denied that he picked it up and threw it at her. Sometime while handcuffing and taking § 87(2)(b) to the police vehicle, PO Ardolino sustained a laceration to his arm caused by the manner in which § 87(2)(b) was being resistant. PO Ardolino provided a photograph of the injury taken after the incident (**Board Review 27, Board Review 51**).



Force at vehicle.mp4

PO Ardolino acknowledged that he is the officer who is seen placing § 87(2)(b) into the police vehicle between 0:00 and 0:05 seconds in the second video. The video does not show a part of



§ 87(2)(b) head or body making contact with the police vehicle. After § 87(2)(b) is placed inside the vehicle she kicks her leg out of the vehicle. The foot does not have a shoe on it at that time. PO Ardolino is seen picking up a shoe and going towards the back passenger side of the vehicle where § 87(2)(b) is seated. Also in the video, PO Ardolino is seen holding the shoe as he walked to the opposite side of the police vehicle and placed the shoe inside the vehicle. The video does not show a point where PO Ardolino throws a shoe at § 87(2)(b).

After watching the video, Sgt. Martinez acknowledged that he grabbed the back of § 87(2)(b)'s head and pushed her so that she could be cuffed. Sgt. Martinez did not see what was occurring at the police vehicle with § 87(2)(b) but recalled that § 87(2)(b) and § 87(2)(b) were resisting getting to the police vehicle. Sgt. Martinez did not see § 87(2)(b) head hit the top of the police vehicle and did not see how § 87(2)(b) was placed inside the vehicle (**Board Review 50**).

PO Schumacher acknowledged that he helped handcuff § 87(2)(b). PO Schumacher recalled that while § 87(2)(b) and § 87(2)(b) were taken to their respective police vehicles, they continued to yell and pull their body weight away from the officers. PO Schumacher recalled seeing legs kicking but did not recall what happened at the police vehicle because his back was turned at the time (**Board Review 52**).

PO Seder did not see what occurred inside to § 87(2)(b). PO Seder denied that he saw an officer push anyone's head against a vehicle. PO Seder did not see anyone kick an officer and did not see an officer throw a shoe at any civilians (**Board Review 53**).

§ 87(2)(g)  
[REDACTED]

**Allegation F- Discourtesy: PO Michael Ardolino spoke discourteously to § 87(2)(b)**  
**Allegation G- Discourtesy: PO Michael Ardolino spoke discourteously to § 87(2)(b)**  
**Allegation H- Discourtesy: Sgt. Martinez spoke discourteously to § 87(2)(b)**  
**Allegation I- Abuse of Authority: PO Ardolino refused to provide his name and shield number to § 87(2)(b)**  
**Allegation L- Force: PO William Schumacher used physical force against § 87(2)(b)**  
**Allegation M- Discourtesy: PO William Schumacher spoke discourteously to § 87(2)(b)**  
**Allegation N- Abuse of Authority: PO William Schumacher refused to provide his name or shield number to § 87(2)(b)**  
**Allegation O- Abuse of Authority: PO William Schumacher threatened to arrest § 87(2)(b)**

§ 87(2)(b) stated that as PO Ardolino handcuffed her he allegedly whispered in her ear, "Shut the fuck up. Stop resisting arrest." As she was walked out of the house, PO Ardolino

allegedly told her “Shut the fuck up fat ass” and she yelled to her mother, “Mom he’s calling me a fat ass.” § 87(2)(b) stated she saw and heard PO Ardolino tell § 87(2)(b) “Shut the fuck up.”

§ 87(2)(b) stated that while PO Ardolino attempted to handcuff § 87(2)(b) he said, “Shut the fuck up.” While § 87(2)(b) watched the officers exit the house Sgt. Martinez and PO Ardolino told him, “Get the fuck out of the way.” At this point he requested PO Ardolino’s name and shield number and PO Ardolino allegedly did not provide it. § 87(2)(b) stated that while § 87(2)(b) was at the police vehicle, PO Ardolino allegedly said, “Shut the fuck up and get your fat ass in there.” § 87(2)(b) stated that while he was standing on the sidewalk, PO Schumacher approached § 87(2)(b) and pushed him with his right hand. § 87(2)(b)’s body did not move back from the push. PO Schumacher said, “What you want to do something? Get the fuck out of here.” § 87(2)(b) asked PO Schumacher for his name and shield number and PO Schumacher stated, “Get the fuck out of here. You have been watching too much Law and Order.” PO Schumacher also stated, “Get the fuck out of here before we take you too.”

§ 87(2)(b) stated that after § 87(2)(b) was in handcuffs, and when PO Ardolino walked her to the police vehicle she heard § 87(2)(b) say that PO Ardolino called her a “fat bitch.” § 87(2)(b) stated that he recalled that profanity was used by officers and civilians and that the word “fuck” was used. § 87(2)(b) stated that while § 87(2)(b) was being walked to the police vehicle, she said, “Did you hear that? He said fat bitch?”



discourtesy allegation 1\_§ 87(2)(b).mp4



discourtesy allegation at the vehicle.mp4

In the original video between the 3:34 and 3:46 (above Discourtesy Allegation 1 § 87(2)(b) PO Ardolino is heard saying, “Shut the fuck up. Get the fuck out of my face” and also uses the word fuck an additional time but it is unclear in the video the exact statement he made. Although, PO Ardolino denied that he said the word fuck the video clearly shows that PO Ardolino exited the house first, followed by Sgt. Martinez and PO Schumacher. Sgt. Martinez on the left side of § 87(2)(b) and PO Schumacher is walking down the steps in front of the house at the times at when the word “fuck” is uttered. At that point, § 87(2)(b) pointed toward PO Ardolino and replied, “You fucked up now bro.”

The original video shows between 3:45 and 4:25 (above Discourtesy Allegation at the Vehicle), § 87(2)(b) being walked to the police vehicle by PO Ardolino. At the 4:14 mark, § 87(2)(b) said to PO Ardolino “Why you calling me fat? Telling me to shut my fat fucking mouth?”

However, the video does not capture PO Ardolino uttering the alleged statement nor does the video capture PO Ardolino whispering into § 87(2)(b) ear.



discourtesy-force-§ 87(2)(b).mp4

The original video shows at the 4:26 mark (above Discourtesy Force § 87(2)(b) that § 87(2)(b) stepped in front of PO Schumacher, off the sidewalk in between PO Schumacher and the street, was speaking loudly, using profanity, and was in close proximity to the officer. Then after that, captured in the video between 4:26 and the 4:40 mark, PO Schumacher pushed § 87(2)(b) and used the word fuck more than once when speaking to § 87(2)(b). It also captures PO Schumacher state, “Get the fuck back, it’s the last I am going to tell you.” The video does not capture Sgt. Martinez saying, “Get the fuck out of the way” or using any discourteous language. The video also does not capture § 87(2)(b) request PO Ardolino’s or PO Schumacher’s name and shield number.

PO Ardolino initially stated that he did not recall if he told § 87(2)(b) “Shut the fuck up” but denied he said, “Get your fat ass in there. You black bitch. Shut the fuck up fat ass. Shut the fuck up.” PO Ardolino later denied that he used the word fuck or that he whispered in § 87(2)(b) ear “Shut the fuck up fat ass.” PO Ardolino denied that he used any profanity. PO Ardolino also denied that he told § 87(2)(b) “Get the fuck out of here before we take you too.” After watching the video, PO Ardolino denied that he said shut up, and denied that between the 3:34 mark and the 3:46 mark that he could be heard saying any discourteous language towards § 87(2)(b) even during the portion of the video where he can be heard saying, “Shut the fuck up. Get the fuck out of my face” and also use the word fuck an additional time. PO Ardolino stated he did not know what § 87(2)(b) was referencing when she said at the 4:14 mark “Why you calling me fat? Telling me shut my fat fucking mouth?” and denied he had told her that.

PO Schumacher denied that he made any discourteous statements or used profanity toward § 87(2)(b) or § 87(2)(b). Initially PO Schumacher denied that he used any profanity at all. However, after viewing the video, PO Schumacher acknowledged that he pushed § 87(2)(b) because § 87(2)(b) was intervening in § 87(2)(b) and § 87(2)(b)’s arrests and could have been arrested for obstruction of governmental administration. PO Schumacher stated that prior to saying the word “fuck” and pushing § 87(2)(b) that he had told § 87(2)(b) multiple times to stand back. PO Schumacher also acknowledged that he used the word fuck to further emphasize his repeated command for § 87(2)(b) to stand back. However, the video does not capture when PO Schumacher issued the command for § 87(2)(b) to stand back.

Sgt. Martinez denied that he said or heard an officer say, any of the aforementioned discourteous statements, use profanity or offensive language. Sgt. Martinez also denied that he heard any civilian request an officer’s name or shield number. Sgt. Martinez recalled that when they exited the house, PO Ardolino and PO Schumacher said “Stand back. Give us room.”

“A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or prevents the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function by means of interference; whether or not physical force is involved.” N.Y.S. Penal Law 195.05 (**Board Review 31**).

According to Patrol Guide Procedure 203-09, an officer should be courteous and respectful when dealing with the public (**Board Review 35**).

According to PD v. Milne, OATH index n. 22/00, July 23, 1999 (**Board Review 55**), in some instances, an officer may use profanity in the heat of a highly dangerous situation or in order to punctuate an order given under extremely stressful circumstances to obtain compliance.

According to Patrol Guide Procedure 203-11, an officer may use the minimal force necessary to effect the arrest of an individual. (**Board Review 36**)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Squad: 11

Investigator:	_____	_____	_____
	Signature	Print	Date

Pod Leader:	_____	_____	_____
	Title/Signature	Print	Date

Attorney:	_____	_____	_____
	Title/Signature	Print	Date